

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

CYNTHIA OVERTON,

Plaintiff,

v.

STATE FARM FIRE AND
CASUALTY COMPANY, GLORIA
JARVIS, and RYAN BROWN

Defendants,

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1446, Defendant State Farm Fire and Casualty Company (hereinafter “State Farm”) hereby files this Notice of Removal removing this case from the Circuit Court of Madison County, Tennessee, Case No. C-23-77, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. §1332, in that Plaintiff’s claims invoke the Court’s diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, State Farm respectfully states as follows:

INTRODUCTION

1. Defendant, State Farm Fire and Casualty Company, is an Illinois corporation with its principal place of business located at One State Farm Plaza, Bloomington, IL 61710.
2. Defendant, Gloria Jarvis, is an adult resident of Texas.
3. Defendant, Ryan Brown, is an adult resident of Georgia.
4. Plaintiff, Cynthia Overton, is an adult resident of Tennessee.

5. Plaintiff's Complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000.00). See Complaint, ¶23, where Plaintiff seeks damages of no less than Four Million Dollars (\$4,000,000.00).

6. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Circuit Court of Madison County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§81(b)(1) and 1441(a).

7. Pursuant to 28 U.S.C. §1332, this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action, and removal is proper.

PROCEDURAL HISTORY

8. Plaintiff, Cynthia Overton, instituted this civil action in the Circuit Court of Madison County, Tennessee, on March 30, 2023, for breach of contract and to compel appraisal arising out an alleged property loss at her property.

9. Plaintiff served the Department of Commerce and Insurance with the Complaint on April 10, 2023. The Department of Commerce and Insurance sent a copy of the Complaint to State Farm on April 17, 2023.

10. Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be filed with the Madison County Circuit Court, and written notice will be provided to Plaintiff along with a copy of this pleading.

REMOVAL IS TIMELY FILED UNDER 28 U.S.C. §1446(b)

11. "The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within

thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. §1446.

12. The Department of Commerce and Insurance was served on April 10, 2023, so pursuant to 28 U.S.C. §1446(b), this notice of removal is timely filed since it is filed on or before May 10, 2023.¹

NON-WAIVER OF DEFENSES

13. By removing this action from Madison County Circuit Court, State Farm does not waive any defenses available to it.

14. By removing this action from Madison County Circuit Court, State Farm does not admit any of the allegations in Plaintiff’s Complaint.

WHEREFORE, PREMISES CONSIDERED, Defendant State Farm Fire and Casualty Company, by and through its counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee, being the district and division for the county in which such civil action is pending, prays that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Circuit Court of Madison County, Tennessee, shall effect the removal of said civil action to this Honorable Court. State Farm Fire and Casualty Company demands a jury to try the issues.

¹ Out of an abundance of caution, State Farm is filing this Notice within 30 days of service on the Department of Commerce and Insurance.

Respectfully submitted,

LEWIS THOMASON, P.C.

s/R. Kent Francis

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May, 2023, a copy of the foregoing pleading has been delivered to the following by email:

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s/R. Kent Francis